

## Message Text

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PAGE 01 STATE 029264  
ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 /026 R

DRAFTED BY L:MBFELDMAN:RMS  
APPROVED BY L - MR. HANSELL  
H - MR. MOSS  
ARA/PAN - MR. WYROUGH  
DOD/ISA - COL.JACKLEY  
S/AB - AMB.POPPER  
S/S -RGAMBLE

-----032769 031713Z /41  
O 031657Z PEB 78  
FM SECSTATE WASHDC  
TO AMEMBASSY PANAMA IMMEDIATE

C O N F I D E N T I A L STATE 029264

EXDIS, PASS LT.GEN.MCAULIFFE AND GOV.PARFITT

E.O. 11652: GDS

TAGS: PBOR, PN

SUBJECT: PANAMA CANAL TREATY IMPLEMENTING AGREEMENTS

1. SENATE FOREIGN RELATIONS COMMITTEE HAS REQUESTED A LETTER STATING THE DEPT'S VIEW WHETHER THE AGREEMENTS IN IMPLEMENTATION OF THE PANAMA CANAL TREATY, OTHER EXECUTIVE AGREEMENTS ARISING OUT OF THE TREATY NEGOTIATIONS BUT NOT DIRECTLY RELATED TO THE CANAL, AND THE PROTOCOL TO THE NEUTRALITY TREATY MAY BE ALTERED BY EXECUTIVE AGREEMENT WITHOUT THE ADVICE AND CONSENT OF THE SENATE OR ACT OF CONGRESS. THE DEPT HERETOFORE HAS ADVISED SENATORS THAT THE AGREEMENTS IN IMPLEMENTATION OF ARTICLE III AND ARTICLE IV OF THE PANAMA CANAL TREATY WERE BEING SUBMITTED TO THE SENATE FOR ITS CONSIDERATION BUT NOT FOR ITS ADVICE AND  
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CONSENT. WE HAVE ASSUMED, BUT HAVE NOT EXPRESSLY STATED, THAT THESE AGREEMENTS COULD BE CHANGED BY EXECUTIVE ACTION IN THE FUTURE. THIS VIEW WOULD BE CONSISTENT WITH THE POSITION TAKEN IN THE PAST WITH RESPECT TO OTHER STATUS OF FORCES AGREEMENTS. HOWEVER, A SUBSTANTIAL ARGUMENT CAN BE MADE THAT AT LEAST THE TWO MAJOR IMPLEMENTING AGREEMENTS

ARE AN INTEGRAL PART OF THE PANAMA CANAL TREATY (THEY ARE SPECIFICALLY INCORPORATED BY REFERENCE THEREIN) AND WE ARE CONCERNED THAT ANY OTHER POSITION MIGHT LOSE ESSENTIAL VOTES IN THE SENATE.

2. WHILE WE MIGHT BE ABLE TO FIND A MIDDLE GROUND BY ASSURING THE SENATE THAT WE WOULD NOT MAKE ANY SIGNIFICANT CHANGE IN THESE AGREEMENTS WITHOUT CONSULTATION WITH THE INTERESTED COMMITTEES (OR EVEN WITHOUT APPROVAL BY THE SENATE), SUCH AN ASSURANCE IS LIKELY TO ENGENDER PROPOSALS FOR A FORMAL RESERVATION OR UNDERSTANDING TO THAT EFFECT. AN OPTION WE MAY HAVE TO ADOPT WOULD BE TO ADVISE THE SENATE THAT WE REGARD THE IMPLEMENTING AGREEMENTS AS AN INTEGRAL PART OF THE TREATY SUBJECT TO CHANGE IN ACCORDANCE WITH CONSTITUTIONAL PROCESSES. THE NEGOTIATING TEAM BELIEVES THAT WE HAVE ADVISED THE GOP IN THE PAST THAT IMPLEMENTING AGREEMENTS MAY BE CHANGED BY EXECUTIVE ACTION AND THAT PANAMA MAY HAVE SOME CONCERN ABOUT A CHANGE IN THIS POSITION. THUS, WHILE WE ARE CONSIDERING OUR FINAL POSITION, WE WOULD LIKE YOU TO CONTACT THE GOP TO EXPLAIN THE PROBLEM AND ASCERTAIN ITS VIEWS. IT SHOULD BE NOTED THAT NUMEROUS PROVISIONS OF THE IMPLEMENTING AGREEMENTS EXPRESSLY PROVIDE FOR CHANGES BY MUTUAL AGREEMENT (E.G., REVISION OF LAND ANNEXES) AND THAT FUTURE CHANGES IN THESE AREAS WOULD NOT REQUIRE CONGRESSIONAL ACTION.

3. THE LIST OF DOCUMENTS CONSIDERED TO BE IMPLEMENTING  
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AGREEMENTS IS SET FORTH IN PARAGRAPH 4 BELOW. WE HAVE NOT YET DETERMINED WHETHER IT WOULD BE LEGALLY FEASIBLE TO MAKE DISTINCTIONS AMONG THEM, BUT THE SENATE IS LIKELY TO BE PARTICULARLY CONCERNED WITH THE TWO MAJOR AGREEMENTS IMPLEMENTING ARTICLES III AND IV, WITH THE MAPS AND WITH THE LETTER ON THE WHOLESALE PRICE INDEX. THE PROTOCOL TO THE NEUTRALITY TREATY IS IN A CLASS BY ITSELF AS NEITHER PANAMA NOR THE U.S. WILL BECOME PARTY TO IT. WE PROPOSE TO ADVISE THE SENATE THAT RATIFICATION OF THE NEUTRALITY TREATY WOULD AUTHORIZE ONLY THE PRESENTATION OF THAT PARTICULAR TEXT OF THE PROTOCOL TO THE OAS AND WOULD NOT SPECULATE AS TO OAS ACTION.

4. SCHEDULE OF DOCUMENTS IMPLEMENTING THE PANAMA CANAL TREATY:

--AGREEMENT IN IMPLEMENTATION OF ARTICLE III OF THE PANAMA CANAL TREATY, WITH ANNEXES AND AGREED MINUTE.

--AGREEMENT IN IMPLEMENTATION OF ARTICLE IV OF THE PANAMA CANAL TREATY, WITH ANNEXES AND AGREED MINUTE.

--MAPS OF THE LAND AND WATER AREAS FOR THE OPERATION AND  
DEFENSE OF THE PANAMA CANAL, REFERRED TO IN THE AGREEMENTS  
IN IMPLEMENTATION OF ARTICLES III AND IV OF THE PANAMA  
CANAL TREATY.

--EXCHANGE OF NOTES RELATING TO POSTAL SERVICES.

--EXCHANGE OF NOTES RELATING TO USE OF COMMISSARY AND POST  
EXCHANGE FACILITIES.

--LETTER DESCRIBING APPLICATION OF THE WHOLESALE PRICE  
INDEX REFERRED TO IN PARAGRAPH 4(A) OF ARTICLE XIII OF  
THE PANAMA CANAL TREATY.

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--LETTER REGARDING TERMINATION OF ARTICLE XVII OF THE  
UNITED STATES-PANAMA AIR TRANSPORT SERVICES AGREEMENT.

5. REQUEST YOU INCORPORATE VIEWS ON ABOVE ISSUE OF  
CINCSOUTH AND GOVERNOR WITH RESPECT TO IMPACT ON MILITARY  
AND CANAL COMMISSION. VANCE

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\*\*\* Current Handling Restrictions \*\*\* EXDIS  
\*\*\* Current Classification \*\*\* CONFIDENTIAL  
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**Decaption Date:** 20 Mar 2014  
**Decaption Note:** 25 YEAR REVIEW  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
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